

WHO'S RIGHT?

In Europe and the United Kingdom, it is common to see the riders in a hunt galloping country lanes next to cars following the hunt. In defense of their custom of driving on the left side of the road, Brits often point out that the customary need to be ready for self-defense on rural roads led to most mounted riders keeping to their left when encountering oncoming wayfarers, so as to be able to access their sword on the right side. The first legal reference in Britain to an order for traffic to remain on the left occurred in 1756 with regard to London Bridge and the General Highways Act of 1773, which contained a recommendation that horse traffic should remain on the left. This custom was enshrined in the Highways Bill in 1835. Despite British custom, Americans and two-thirds of the world drive on the right side of the road. But who's right when a horse and car meet on the roadway? Who has the legal right of way—the horse or the car? In Colorado, the answer depends on whether the horse is accompanied by a rider.

Colorado Revised Statute §42-4-109 states that all persons riding or leading horses should do so against traffic, on the left side of the highway. Every person riding, leading an animal, or driving any animal-drawn conveyance upon a roadway, shall be granted all of the rights, and is subject to all of the duties applicable to the driver of a motor vehicle, except those provisions which by their very nature can have no application. Where trails have been established, the state or local authorities may erect signs directing that such equestrian or other traffic be removed from the normally traveled streets.

Generally, a motorist is expected to exercise reasonable care to avoid a collision with a domestic animal on a highway. However, Colorado courts have held that liability attaches only when the animal's owner has established the driver is guilty of negligence. The court entered a judgment for the livestock's damage to the vehicle. Additionally, in another case, the court declined to recognize Estes Park's custom of giving saddle horses the right of way to vehicles, and again awarded



Photo by Kathy Journey

damages for the repairs to the vehicle damaged after hitting a horse which spooked and jumped in the roadway.

The general statement of the law is that the driver does not even have a duty to slow or stop his vehicle when he is in the vicinity of, or approaching, animals. Rather, the driver's duty is to stop when reasonably necessary, based on the circumstances of the particular case. [1] Unless required by a local statute or rule, the driver is generally not negligent simply because the driver has driven past a frightened horse. In short, riders must be cautious and make sure that we are following the rules of the road, if we choose to ride on the road. We can hope that drivers have horse-sense, but let's face it, most Americans have turned in their swords for cell phones, and have no idea how horses will react to passing automobiles.

ADDITIONAL NOTES

In court cases, specific information about the location (road names, crossways of roads, exact subdivision name, etc.) of the horse and motorist is needed to determine whether easements, horse trails, or other paths were located nearby that the horse should have been traveling on. **H**

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